

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSEPH DEAN LEE,

Defendant.

CR 15-63-GF-BMM-JTJ

FINDINGS AND
RECOMMENDATIONS

I. Synopsis

Defendant Joseph Dean Lee (Lee) has been accused of violating conditions of his supervised release. (Docs. 78 and 94). Lee admitted the alleged violations. Lee's supervised release should be revoked. Lee should be sentenced to custody until September 30, 2024, at noon on Count II and Count III, with said terms to run concurrently and to 34 months of supervised release to follow on both Counts II and III, with said terms to run concurrently.

II. Status

Lee was found guilty on January 6, 2016, by a jury of the offenses of Count II: Assault with the Intent to Commit Aggravated Sexual Abuse, in violation of 18 U.S.C. Sections 1153(a), 113(a)(1) and Count III: Assault with the Intent to Commit Abusive Sexual Contact, in violation of 18 U.S.C. Sections 1153(a), 113(a)(2) as

charged in the Indictment. (Doc. 63). Lee was sentenced to 110 months of custody on each count, with the terms to run concurrently, followed by 3 years of supervised release on each count, with the terms to run concurrently. (Doc. 62). Lee's current term of supervised release began on November 17, 2023.

Petition

On May 6, 2024, the United States Probation Office filed a Petition requesting that the Court revoke Lee's supervised release. (Doc. 79). The Petition alleged Lee violated conditions of his supervised release by: (1) using methamphetamine on April 21, 2024; and (2) failing to successfully complete outpatient sex offender treatment program by being terminated from South Central Treatment Associates program on April 28, 2024.

Initial Appearance

Lee appeared before the Court on June 25, 2024, for his initial hearing. Lee was represented by counsel. Lee stated that he had read the Petition and that he understood the allegations against him. Lee waived his right to a preliminary hearing. The parties consented to proceed with the revocation hearing before the undersigned. Lee requested time to prepare for the revocation hearing. The Court then set the revocation hearing for July 9, 2024, at 1:30 p.m.

Revocation hearing

Lee appeared before the Court on July 9, 2024. Lee admitted that he had violated the conditions of supervised release as set forth in the Petition by: (1) using methamphetamine on April 21, 2024; and (2) failing to successfully complete outpatient sex offender treatment program by being terminated from South Central Treatment Associates program on April 28, 2024. The Court determined the violations are serious and warrant revocation of Lee's supervised release.

Sentencing hearing

Lee appeared before the Court on July 9, 2024. At such time, the Court continued Lee's sentencing for 90 days and scheduled a sentencing hearing for October 8, 2024.

Amended Petition

On August 19, 2024, the United States Probation Office filed an Amended Petition requesting that the Court revoke Lee's supervised release. (Doc. 94). The Amended Petition alleged Lee violated conditions of his supervised release by the added violation of: (3) failing to refrain from the unlawful use of controlled substances, testing positive for methamphetamine and marijuana on July 30, 2024.

Second Initial Appearance

Lee appeared before Magistrate Tim Cavan on August 19, 2024, for an initial appearance regarding the Amended Petition. Lee was represented by counsel. Lee

stated that he had read the Amended Petition and that he understood the allegations against him. Lee waived his right to a preliminary hearing. Judge Cavan set a final revocation hearing before this Court for August 27, 2024. At the August 27, 2024, hearing, the parties consented to proceed with the final revocation hearing before the undersigned.

Second Revocation hearing

Lee appeared before the Court on August 27, 2024. The Court noted that Lee had previously admitted that he had violated the conditions of supervised release as set forth in the Petition by: (1) using methamphetamine on April 21, 2024; and (2) failing to successfully complete outpatient sex offender treatment program by being terminated from South Central Treatment Associates program on April 28, 2024. Lee then admitted to allegation (3) failing to refrain from the unlawful use of controlled substances, testing positive for methamphetamine and marijuana on July 30, 2024, as set forth in the Amended Petition. The Court determined the violations are serious and warrant revocation of his Lee's supervised release.

Sentencing hearing

Lee appeared before the Court on August 27, 2024. Lee's violation is a Grade C violation. His criminal history category is II. Lee's underlying offenses, Count I and II, are each a Class C felony. Lee could be incarcerated for up to 24 months on Count II and 24 months on Count III. Lee could be ordered to remain on supervised

release for 36 months less any custody time on Count II and 36 months less any custody time on Count III. The United States Sentencing Guidelines call for a term of custody of 4 to 10 months.

III. Analysis

Lee's supervised release should be revoked. Lee should be sentenced to custody until September 30, 2024, at noon, on Count II and Count III, with 34 months of supervised release to follow on Count II and Count III, with said terms to run concurrently. This sentence is sufficient but not greater than necessary.

IV. Conclusion

The Court informed Lee that the above sentence would be recommended to the Chief United States District Judge Brian Morris. The Court also informed Lee of his right to object to these Findings and Recommendations within 14 days of this issuance. The Court explained to Lee that Judge Morris would consider a timely objection before making a final determination on whether to revoke his supervised release and what, if any, sanction to impose.

The Court **FINDS:**

That JOSEPH DEAN LEE has violated the conditions of his supervised release by: (1) using methamphetamine on April 21, 2024; (2) failing to successfully complete outpatient sex offender treatment program by being terminated from South Central Treatment Associates program on April 28, 2024; and (3) failing to refrain from the unlawful use of controlled substances, testing positive for methamphetamine and marijuana on July 30, 2024.

The Court **RECOMMENDS:**

That the District Court revoke Lee's supervised release and sentence Lee to custody until September 30, 2024, at noon, on Count II and Count III, with 34 months of supervised release to follow on Count II and Count III, with said terms to run concurrently.

**NOTICE OF RIGHT TO OBJECT TO FINDINGS AND
RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO
OBJECT**

The parties may serve and file a written objections to the Findings and Recommendations within 14 days of their entry, as indicated on the Notice of Electronic Filing. 28 U.S.C. Section 636(b)(1). A United States district court judge will make a de novo determination regarding any portion of the Findings and Recommendations to which objection is made. The district court judge may accept, reject, or modify, in whole or in part, the Findings and Recommendations. Failure to timely file written objections may bar a de novo determination by the district court judge and may waive the right to appear and allocute before a district court judge.

DATED this 27th day of August 2024.



John Johnston
United States Magistrate Judge